

*Superseded by
act. 29 d. V.C.A*

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Opinion No. O-1105

Re: If a county once has a population by federal census of 10,000 or more, does it continue to have elected a tax collector if a subsequent census shows a population of less than 10,000.

Dear Sir:

Yours of the 17th instant is received. You submit the following question:

"Would a county once established as an over county - that is, with a population of more than 10,000 - remain an over county if the census in 1940 were less than 10,000 inhabitants."

Article VIII, Section 16, of the Constitution adopted in 1932 is:

"The sheriff of each county, in addition to his other duties, shall be the assessor and collector of taxes therefor; but, in counties having 10,000 or more inhabitants, to be determined by the last preceding census of the United States, an assessor and collector of taxes shall be elected to hold office for two years and until his successor shall be elected and qualified."

It will be noted that the sheriff is entitled to hold the office of assessor and collector under the Constitution, except in counties having more than 10,000 inhabitants, to be determined by the last preceding census of the United States.

Honorable George H. Sheppard, Page 2 (O-1105)

A discussion of this constitutional provision may be found in Brooke vs. Dulaney, 100 Tex. 86; Nelson vs. Edwards, 55 Tex. 389; Holcomb vs. Spikes, 232 S.W. 891.

We answer that if the county in question is shown by the 1940 census to have less than 10,000 inhabitants that then under the Constitution the sheriff is entitled to hold the office of assessor and collector in addition to that of sheriff.

Yours very truly

ASR:FG:wb

ATTORNEY GENERAL OF TEXAS

By /s/ Albert S. Rollins

Albert S. Rollins, Assistant

APPROVED JUL 22, 1939

APPROVED: OPINION COMMITTEE

/s/ W. F. Moore

BY: T.D.R. Chairman

FIRST ASSISTANT
ATTORNEY GENERAL